

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ASIA JOHNSON,

*Plaintiff,*

v.

ORLANDO HARPER, *et al*,

*Defendants.*

Civil Action No. 2:21-cv-883

Hon. William S. Stickman IV

Hon. Maureen P. Kelly

**ORDER OF COURT**

Plaintiff Asia Johnson (“Plaintiff”), who is a prolific serial filer of civil rights lawsuits, was granted leave to proceed *in forma pauperis* on September 7, 2021. (ECF No. 3). Magistrate Judge Maureen P. Kelly issued a Report and Recommendation pursuant to 28 U.S.C. § 1915 on September 9, 2021, recommending that the Court dismiss this case, and that leave to amend be granted only with respect to Plaintiff’s Fourteenth Amendment claim relating to excessive force and/or denial of medical care. (ECF No. 5). While Plaintiff failed to provide sufficient allegations of fact to state a Fourteenth Amendment claim for excessive force and/or denial of medical care, out of an abundance of caution Magistrate Judge Kelly determined that leave to amend would not be futile as to this claim. (ECF No. 5, p. 3). Plaintiff was given until September 27, 2021, to file objections to the Report and Recommendation. (ECF No. 5).

No objections having been filed, the Court hereby ADOPTS Magistrate Judge Kelly’s Report and Recommendation as the Opinion of the Court.

AND NOW, this 4<sup>th</sup> day of October 2021, IT IS HEREBY ORDERED that Plaintiff’s Complaint is DISMISSED. Leave to amend is granted only with respect to Plaintiff’s claim for excessive force and/or denial of medical care. An Amended Complaint must be filed within

twenty-one (21) days that only contains factual allegations as to Plaintiff's claim for excessive force and/or denial of medical care. All other claims are dismissed with prejudice as the Court hold that further amendment of them would be futile. *See* 3 James Wm. Moore et al., Moore's Federal Practice ¶ 15.15 (3d ed. 2021) ("An amendment is futile if it merely restates the same facts as the original complaint in different terms, reasserts a claim on which the court previously ruled, fails to state a legal theory, or could not withstand a motion to dismiss.").

BY THE COURT:

A handwritten signature in black ink, appearing to read "Wm S Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV  
UNITED STATES DISTRICT JUDGE